

EXHIBIT 1

INTRODUCTION

On April 26, 1996, the Greater San Diego Chamber of Commerce formed a general purpose committee, Excellence in Student Achievement PAC. Its first treasurer was Chris Miller. In September 1996, the Chamber established a nonprofit corporation known as "Regional Prosperity, Inc." (hereafter, RPI). Chris Miller remained the PAC's treasurer until shortly after his arrest on charges of embezzlement and other crimes unrelated to this enforcement action. On May 22, 1998, F. Laurence Scott, managing partner of Hawkins and Scott, LLP, an accounting firm, became treasurer of the PAC.

For purposes of this Stipulation, the violations of the Political Reform Act (the "Act")¹ are as follows:

- Count 1: On April 26, 1996, Respondent Excellence in Student Achievement PAC filed a Statement of Organization which failed to include the name of its sponsor, the Greater San Diego Chamber of Commerce, in violation of Section 84102.
- Count 2: On or about and between July 25, 1996, and January 26, 2000, Respondent Excellence in Student Achievement PAC filed numerous campaign statements which failed to include the name of its sponsoring organization, The Greater San Diego Chamber of Commerce, in violation of Section 84106.
- Count 3: On January 21, 1997, Respondent Excellence in Student Achievement PAC filed a semi-annual campaign statement for the period ending December 31, 1996, which failed to disclose the true source and the true guarantor of a \$25,000 loan received by the PAC, in violation of Section 84211.
- Count 4: On October 23, 1998, Respondent Excellence in Student Achievement PAC filed a pre-election statement which failed to disclose the true source and the true guarantor of a \$60,000 loan received by the PAC, in violation of Section 84211.

SUMMARY OF THE LAW

COUNT 1

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to assure that

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All references to "Section(s)" are to the aforementioned Government Code unless otherwise indicated. Commission regulations appear at Title 2, California Code of Regulations, section 18109, *et seq.*

the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed, and so that improper practices will be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose.

Statement of Organization

The Act provides that a campaign committee must file a statement of organization within 10 days after it has qualified as a committee. (Sec. 84101.) The statement of organization shall include, among other things, the name, street address, and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee. In the case of a sponsored committee, the statement of organization shall also include the name, street address, and telephone number of each sponsor as well as the full name, street address, and telephone number, if any, of the treasurer and other principal officers. (Sec. 84102.)

Sponsored Committee

A sponsored committee is defined in Section 82048.7, which states:

(a) “Sponsored committee” means a committee, other than a candidate controlled committee, which has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

- (1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.
- (2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.
- (3) The person alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.
- (4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

COUNT 2

Campaign Statements

A committee’s campaign statements must include the full name, residential or business address, and telephone number of the committee. (Sec. 84211, subd. (o).) Under section 84102, subdivision (a), the name of a committee shall include the name of its sponsor. Whenever

identification of a sponsored committee is required by this title, the identification shall include the full name of the committee. (Sec. 84106.)

COUNTS 3 & 4

Source of Loans

Campaign statements must also include information regarding loans extended to or by the committee. If the cumulative amount of loans received from or made to a person is one hundred dollars (\$100) or more, and a loan has been received from or made to a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, all of the following information must be included in the campaign statement:

- (1) His or her full name.
 - (2) His or her street address.
 - (3) His or her occupation.
 - (4) The name of his or her employer, or if self-employed, the name of the business.
 - (5) The original date and amount of each loan.
 - (6) The due date and interest rate of the loan.
 - (7) The cumulative payment made or received to date at the end of the reporting period.
 - (8) The balance outstanding at the end of the reporting period.
 - (9) The cumulative amount of contributions.
- (Sec. 84211, subd. (g).)

Guarantor of Loans

Also required on campaign statements is information about who may be held responsible for repayment of loans. For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received or outstanding during the period covered by the campaign statement, all of the following information must be included in the campaign statement:

- (1) His or her full name.
 - (2) His or her street address.
 - (3) His or her occupation.
 - (4) The name of his or her employer, or if self-employed, the name of the business.
 - (5) The amount of his or her maximum liability outstanding.
- (Sec. 84211, subd. (h).)

SUMMARY OF THE FACTS

COUNT 1

In early 1996, the Business Roundtable for Education was an organization within the education department of the Greater San Diego Chamber of Commerce. Mel Katz was Chairman of the Business Roundtable for Education. In an effort to help elect selected candidates for San Diego School Board, on April 26, 1996, the Chamber of Commerce and the Business Roundtable formed Excellence in Student Achievement PAC, a general purpose committee. Mel Katz was Chairman of the PAC. The PAC's treasurer from 1996-1998 was Chris Miller. On May 22, 1998, following Chris Miller's arrest for embezzlement and other crimes unrelated to this enforcement action, F. Laurence Scott, managing partner of Hawkins and Scott, LLP, an accounting firm, became treasurer of the PAC.

In September 1996, the Chamber established a nonprofit corporation known as "Regional Prosperity, Inc." Mel Katz was also President of RPI. Katz told Commission investigators that the purpose of RPI was to act as an "umbrella" for PAC's.

On June 11, 1996, Chamber Chairman Steve Cushman and Roundtable Chairman Katz wrote a letter to Chamber members advising them of the formation of the PAC, and soliciting funds for the PAC. According to campaign statements, the PAC raised \$94,858 in 1996, and \$92,145 in 1998. Virtually all of the funds raised by the PAC came from contributions made by Chamber members, and loans and transfers of funds from organizations affiliated with the Chamber. In 1996, RPI loaned the PAC \$25,000, which RPI obtained by way of a loan from Wells Fargo Bank that was personally guaranteed by Chamber Chairman Steve Cushman and Roundtable Chairman Mel Katz. In 1998, RPI loaned the PAC another \$60,000, which RPI obtained by way of a loan from Wells Fargo Bank, that was personally guaranteed by Katz. Additionally, in 1998, the Greater San Diego Chamber of Commerce Foundation contributed \$13,052 to the PAC to cover the PAC's administrative costs.

Because the PAC received over 80% of its funds from Chamber members or Chamber-affiliated entities, and because the Chamber and Roundtable set the policies for soliciting contributions and making expenditures of the PAC's funds, the Chamber was the PAC's sponsor, and the PAC was required by section 84102 to include the Chamber's name on its Statement of Organization as the sponsor of the PAC.

By failing to disclose the name of the sponsor on its Statement of Organization, Respondent Excellence in Student Achievement PAC violated section 84102.

COUNT 2

Between July 25, 1996, and February 1, 2001, Respondent Excellence in Student Achievement PAC filed numerous campaign statements which failed to include the name of its sponsoring organization, The Greater San Diego Chamber of Commerce. By failing to disclose the name of its

sponsor on its campaign statements, Respondent Excellence in Student Achievement PAC violated section 84106.

COUNT 3

On January 21, 1997, Respondent Excellence in Student Achievement PAC filed a semi-annual campaign statement for the period ending December 31, 1996, which disclosed that the PAC received a \$25,000 loan on October 30, 1996. Wells Fargo Bank was listed as the source of the loan, and the PAC as guarantor of the loan. The actual source of the loan was Regional Prosperity, Inc., and the guarantors were Chamber of Commerce Chairman Steve Cushman and RPI President and Business Roundtable Chairman Mel Katz. By failing to disclose the true source and guarantors of the loan, Respondents violated section 84211.

COUNT 4

On October 23, 1998, Respondent Excellence in Student Achievement PAC filed a pre-election statement for the period ending October 17, 1998, which disclosed that the PAC received a \$60,000 loan on October 2, 1998. Wells Fargo Bank was listed as the source of the loan and the PAC as guarantor of the loan. On February 1, 1999, the PAC filed an amended statement which listed Wells Fargo Bank as the source of the loan, and Mel Katz as the guarantor. The actual source of the loan was Regional Prosperity, Inc., and the guarantor was RPI President and Business Roundtable Chairman Mel Katz. By failing to disclose the true source and guarantors of the loan, Respondents violated section 84211.

CONCLUSION

This matter consists of four counts, which carry a maximum possible penalty of Eight Thousand Dollars (\$8,000).

Respondent Excellence in Student Achievement PAC did not go to great lengths to conceal its relationship with the Greater San Diego Chamber of Commerce. The Chamber President announced in a letter to its members, on Chamber letterhead, that it had formed the PAC and openly solicited funds for the PAC. Nonetheless, the relationship was not reported as required and, consequently, members of the general public, who were not Chamber members, would have had no way of knowing that Excellence In Student Achievement PAC was an organization sponsored by the Greater San Diego Chamber of Commerce.

With respect to the formation of the corporation known as RPI, Inc, and the manner in which the loans from RPI to the PAC were reported on the PAC's campaign statements, Mel Katz stated to Commission Investigator Sue Straine that this was all done on the advice of Chris Miller.

Respondents provided cooperation in the investigation of this matter. The agreed upon administrative penalty is \$4,000.